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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,086	09/26/2000	Yuji Sawada	55168(55)	4078
21874	7590	03/20/2006	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/647,086	Applicant(s) SAWADA ET AL.	
	Examiner Matthew S. Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-19, 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>See OA</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/2005 has been entered.

Prosecution History Summary

- Claims 1-30 are pending in the instant application.
- Claims 1-19 and 29-30 were withdrawn from consideration.
- Claims 20-28 constitute the claims under active prosecution in this application.

Information Disclosure Statement

The information disclosure statements submitted on 5/3/2004, 4/8/2005 and 4/20/2005 are being considered by the Examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser U.S. Patent Number 6,385,596.

Referring to claim 20. Wiser discloses a data reproducing apparatus reproducing digital data including reproducing apparatus specifying information specifying an apparatus capable of reproduction, comprising:

A storage apparatus (Wiser: Figure 1B, "Music Distribution Center **124**") storing reproduction apparatus ID information unique to said reproducing apparatus (Wiser: column 8, lines 1-42 and Figure 3);

A first determining apparatus determining whether said reproducing apparatus is capable of reproducing said digital data from said reproduction apparatus ID information and said reproducing apparatus specifying information (Wiser: column 8, lines 43-56, "Passport");

A control apparatus enabling or disabling reproduction of digital data by said reproducing apparatus dependent on the result of determination by said first determining apparatus (Wiser: column 8, line 43 to column 9, line 37) and

A CPU controlling each of said storage apparatus said first determining apparatus and said control apparatus (Wiser: Figure 1).

The Examiner notes, the passport as disclosed by Wiser is a data object that provides the security information particular to each user of the system. Each user is issued a passport by the media-licensing center during the registration process. The passport is stored on the user's computer and used during playback to decrypt the media key for each media data file purchased by the user. Whereas encrypting the media key of a purchased media data file with the public key of a user's media player binds the media data file to a specific user, the user's passport in turn enables (i.e. control apparatus) the user to decrypt the file and play it back on her media player.

Wiser does not expressly disclose a data reproducing apparatus for reproducing digital data including reproducing apparatus specifying information specifying an apparatus capable of reproduction, comprising a housing containing: a storage apparatus, a first determining apparatus, a control apparatus, and a CPU. Wiser discloses a data reproducing apparatus wherein the storage apparatus, the first determining apparatus, the control apparatus, and the CPU are remotely interconnected. The Examiner notes, shifting the position of the storage apparatus, the first determining apparatus, the control apparatus, and the CPU does not modify the operation of the data reproducing apparatus. The mere fact that the storage apparatus, the first determining apparatus, the control apparatus, and the CPU are rearranged and positioned in a housing container is not by itself sufficient to patentably distinguish the instant invention from the prior art. See *In re Japikse*, 181 F.2d

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1019, 86 USPQ 70 (CCPA 1950). Furthermore, the applicant has not persuasively demonstrated the criticality of providing the storage apparatus, the first determining apparatus, the control apparatus, and the CPU in a housing container versus the apparatus disclosed by Wiser.

Referring to claim 21. Wiser further discloses a data reproducing apparatus wherein:

Said digital data includes display data reproduced visually (Wiser: abstract); and

Said reproducing apparatus comprising a display apparatus for visually reproducing and displaying said digital data (Wiser: abstract).

Referring to claim 22. Wiser further discloses a data reproducing apparatus further comprising an ID information input apparatus responsive to determination by said first determining apparatus that said reproducing apparatus is not a reproducing apparatus capable of reproducing said digital data, urging a user to enter a reproducing apparatus ID information (Wiser: column 9, lines 25-37, "The user is required to enter his/her pass phrase upon playback in order to decrypt the registration key 420.")

Referring to claim 23. Wiser further discloses a data reproducing apparatus comprising:

A second determining apparatus determining whether the data reproducing apparatus specified by the reproducing apparatus ID information input by said ID

information input apparatus is a reproducing apparatus capable of reproducing said digital data; wherein said control apparatus enables or disables reproduction of digital data by said reproducing apparatus dependent on the result of determination by said second determining apparatus (Wiser: column 18, lines 544).

Referring to claim 24. Wiser further discloses a data reproducing apparatus comprising:

An update selecting apparatus responsive to the determination by said second determining apparatus that the data reproducing apparatus specified by the reproducing apparatus ID information input by said ID information input apparatus is a reproduction apparatus capable of reproducing said digital data, allowing the user to select whether said reproducing apparatus specifying information is to be updated by said input reproducing apparatus ID information (Wiser: column 17, lines 35-52); and

An updating apparatus responsive to the selection, by said update selecting apparatus that said reproducing apparatus specifying information is to be

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updated by said reproducing apparatus specifying information by said input reproducing apparatus ID information (Wiser: column 17; lines 35-52).

Referring to claims 25-26. Claims 25-26 are rejected under the same rationale as set forth above in claims 20-24.

Referring to claim 27. Wiser further discloses a data reproducing apparatus wherein said reproducing apparatus specifying information is recorded when reproduction is first performed by the data reproducing apparatus (Wiser: Figure 3).

Referring to claim 28. Wiser further discloses a data reproducing apparatus wherein said reproducing apparatus specifying information is recorded when the digital data is sold (Wiser: Figure 3).

Response to Arguments

Applicant's arguments filed 12/22/2005 have been fully considered but they are moot in view of the new grounds of rejection.

The Examiner notes, the Applicant argues that Wiser does not teach "a CPU controlling each of said storage apparatus said first determining apparatus and said controlling apparatus". The examiner disagrees and notes that the examiner has examined the claims in light of the broadest reasonable interpretation of these claims. Therefore, the CPU, which controls the media experience through the web browser, does in fact control the access of the "music distribution center" subsequently controlling to some degree its function.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MSG
Patent Examiner
March 15, 2006